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FILED
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SOUTHERN DISTRICT OF CALIFORNIA
BY: *Orb* DEPUTY

9 UNITED STATES DISTRICT COURT
10 SOUTHERN DISTRICT OF CALIFORNIA

11 PAMELA CHYBA
12 Plaintiff,

13 vs.

14 GREEN TREE SERVICING, LLC., AKA GREEN TREE,
15 LLC, AKA GREEN TREE
16 Defendant's,
17

Case No. **'12 CV 2530 H WMC**

PLAINTIFF'S VERIFIED CIVIL RIGHTS
COMPLAINT PURSUANT TO 15 U.S.C. §
1681ET. SEQ., 15 U.S.C. 1692 ET SEQ.,
PLAINTIFF'S JUDICIAL NOTICE/COGNIZANCE
WITH RIGHTS AND CLAIMS

TRIAL BY JURY DEMANDED

Date: August 6, 2012

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19 JURISDICTION, PARTIES, AND VENUE

20 This court has jurisdiction under 28 U.S.C §1331, 15 U.S.C. §1692k(d), and 15 U.S.C. §1681p. All
21 conditions precedent to the bringing of this action have been performed. The Plaintiff, in care of
22 C/O:7734 Madrilena Way, Carlsbad, California 92009. The Defendants, GREEN TREE SERVICING
23 LLC, aka GREEN TREE LLC, aka GREEN TREE, hereinafter referred to as "GREEN TREE" all unknown
24 entities, located at 7360 South Kyrene Road, Tempe, Arizona 85283, and 345 Saint Peter Street,
25 Saint Paul, Minnesota 55102. C/O Registered Agent: THE CORPORATION TRUST COMPANY 1209
26 Orange Street, Wilmington, Delaware 19801. The occurrences which give rise to this action
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1 occurred in San Diego, California and Plaintiff resides in San Diego, California. Venue is proper in
2 the Southern District of California.

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4 **PRELIMINARY STATEMENT**

5 This action is for damages for violations of Plaintiff's civil rights of the Fair Credit Reporting Act
6 (FCRA) 15 U.S.C. §1681b et seq., Fair Debt Collections Practices Act (FDCPA) 15 U.S.C. §1692et.
7 seq., and The Rosenthal Fair Debt Collection Practices Act California Civil Code §1788 et. seq.

8 Plaintiff contends that the Defendant's, all unknown entities, have violated such laws by
9 obtaining Plaintiff's credit report without authorization repeatedly in attempts to collect alleged
10 but nonexistent debt. Plaintiff has never had any business dealings or agreement with
11 Defendant's.
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14 **GENERAL AND FACTUAL ALLEGATIONS**

- 15 1. Plaintiff obtained her consumer credit report from Experian and Trans Union consumer
16 credit reporting agency and found an entry by Defendant, GREEN TREE that was
17 unfamiliar.
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- 19 2. Plaintiff found after examination of her Experian and Transunion consumer credit report
20 that Defendant, had obtained Plaintiff's Experian and Trans Union consumer credit report
21 on December 12, 2011 and December 1, 2011.
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- 23 3. Discovery of violation brought forth herein occurred on or about December 13, 2011 and
24 is within the statute of limitations as defined in FCRA, 15 U.S.C. § 1681p.
- 25 4. On December 29, 2011 Plaintiff sent Defendant a validation/dispute letter, delivered to
26 Defendant on January 7th, 2012.
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- 28 5. After no response was received, Plaintiff sent USPS Certified Mail Defendant received on

June 27th, 2012 a letter of intent of pending lawsuit to be filed, giving them an additional 10 days in good faith to settle this amicably and get a response from Defendant. No response was received.

6. Plaintiff did everything in her power in reaching resolution acting in good faith on several occasions and avoid litigation. Defendant gave Plaintiff no choice but to file the lawsuit to resolve this matter.

COUNT I

**VIOLATION OF FAIR DEBT COLLECTION PRACTICES ACT (FDCPA), 15 U.S.C. §1692g BY
DEFENDANT GREEN TREE**

7. Plaintiff alleges and incorporates the information in paragraphs 1 through 6.
8. Defendant GREEN TREE violated 15 U.S.C. §1692g by not sending Plaintiff any written notice in connection with any alleged debt after the initial contact with consumer after obtaining Plaintiff's consumer credit report on December 12, 2011 and December 1, 2011.

15 U.S.C. §1692g states in part Validation of debts –

(a) Within five days after the initial communication with a consumer in connection with the collection of any debt, a debt collector shall, unless the following information is contained in the initial communication or the consumer has paid the debt, send the consumer a written notice containing

(1) the amount of the debt;

(2) the name of the creditor to whom the debt is owed;

(3) a statement that unless the consumer, within thirty days after receipt of the notice, disputes the validity of the debt, or any portion thereof, the debt will be assumed to be valid by the debt collector.

WHEREFORE, Plaintiff demands judgment for damages against GREEN TREE for actual, statutory, punitive damages, any other damages, attorney's fees and costs, and pursuant to 15 U.S.C. §1692.

COUNT II

**VIOLATION OF FAIR DEBT COLLECTION PRACTICES ACT (FDCPA), 15 U.S.C. §1692e(10) BY
DEFENDANT GREEN TREE**

10. Plaintiff alleges and incorporates the information in paragraphs 1 through 9.

11. Defendant GREEN TREE violated 15 U.S.C. §1692e(10) by the use of a false representation or deceptive means to collect or attempt to collect a debt or to obtain information concerning a consumer. Defendant is unknown entity to Plaintiff. Plaintiff has no business dealings or agreement with Defendant.

15 U.S.C. §1692e(10) states in part;

A debt collector may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:
(10) The use of any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer.

WHEREFORE, Plaintiff demands judgment for damages of against GREEN TREE for actual, statutory, punitive damages, attorney's fees and costs, and pursuant to 15 U.S.C. §1692.

COUNT III

VIOLATION OF THE FAIR CREDIT REPORTING ACT (FCRA), 15 U.S.C. §1681b et. Seq. WILLFUL NON-COMPLIANCE BY DEFENDANT GREEN TREE

12. Plaintiff alleges and incorporates the information in paragraphs 1 through 12.

13. Defendant is a person as defined within the meaning of the FCRA, 15 U.S.C. §1681a(b).

14. Plaintiff is a consumer within the meaning of the FCRA, 15 U.S.C. §1681a(c).

1 15. Experian and Trans Union are a credit reporting agency within the meaning of the FCRA, 15
2 U.S.C. §1681a(f).

3 16. Consumer credit report is a consumer report within the meaning of the FCRA, 15 U.S.C.
4 §1681a(d).

5 17. Defendant violated The FCRA, 15 U.S.C. § 1681b et seq., by obtaining Plaintiff's consumer
6 credit report with no permissible purpose as defined in 15 U.S.C. § 1681b et seq.

7 18. Plaintiff has never had any business dealings or any account with, made application for
8 credit from, made application for employment with, applied for insurance from, or receive
9 a bona fide offer of credit from the Defendant.

10 19. At no time did Plaintiff give her consent for Defendant, to acquire her consumer credit report
11 from any credit reporting agency.

12 20. On December 12, 2011 Defendant obtained the Experian consumer credit report of
13 Plaintiff, with no permissible purpose in violation of FCRA, 15 U.S.C. §1681b et. seq.

14 21. On December 1, 2011 Defendant obtained the Trans Union consumer credit report of
15 Plaintiff, with no permissible purpose in violation of FCRA 15 U.S.C. 1681b et seq.

16 22. The actions of Defendant of obtaining the consumer credit report of the Plaintiff with no
17 permissible purpose or Plaintiff's consent was a willful and negligent violation of FCRA, 15
18 U.S.C. § 1681b et seq. an egregious violation of Plaintiff's civil rights and right to privacy.

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24 **WHEREFORE**, Plaintiff demands judgment for damages against Defendant, GREEN TREE for statutory
25 damages , actual damages, costs of this action, attorney's fees, and any other costs pursuant to 15
26 U.S.C. § 1681n and 15 U.S.C. § 1681o.

COUNT IV

VIOLATION OF THE ROSENTHAL FAIR DEBT COLLECTION PRACTICES ACT CALIFORNIA CIVILCODE

§1788 ET SEQ. WILLFUL NON-COMPLIANCE BY DEFENDANT, GREEN TREE

22. Plaintiff alleges and incorporates the information in paragraphs 1 through 22.
23. Defendant violated §1788.11 (i) The false representation of the true nature of the business or services being rendered by the debt collector, and
24. Defendant violated § 1788.17. Compliance with federal provisions:

Notwithstanding any other provision of this title, every debt collector collecting or attempting to collect a consumer debt shall comply with the provisions of Sections 1692b to 1692j, inclusive, of, and shall be subject to the remedies in Section 1692k of, Title 15 of the United States Code. However, subsection (11) of Section 1692e and Section 1692g shall not apply to any person specified in paragraphs (A) and (B) of subsection (6) of Section 1692a of Title 15 of the United States Code or that person's principal. The references to federal codes in this section refer to those codes as they read January 1, 2001.

WHEREFORE, Plaintiff demands judgment for damages against Defendant, GREEN TREE for knowingly and willfully violating the Rosenthal Fair Debt Collection Practices Act 1788 et seq., for actual damages, costs of this action, and penalties in such amounts as this honorable court may allow, attorney's fees, and costs pursuant to the Rosenthal Fair Debt Collection Practices Act § 1788.30 (b)(c).

Plaintiff reserve the right to amend complaint.

Plaintiff's Judicial Notice/Cognizance with claim of rights concurrently filed herewith.

TRIAL BY JURY DEMANDED

Respectfully Submitted,

VERIFICATION

I, Pamela Chyba, do swear and affirm that all statements made herein are true and accurate, in all respects, to the best of my knowledge.

Date: August 6, 2012


Pamela Chyba

The person above, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to this document and acknowledged to me that she executed the same in her authorized capacity and that by her signature on this instrument who is the person who executed this instrument. I certify under PENALTY OF PERJURY under the laws of this State that the foregoing paragraph is true and correct.

Witness my hand and official seal.



**NOTARY PUBLIC IN AND FOR
THE STATE OF NEVADA
COUNTY OF CLARK**

Notary Seal

